UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

ALEC S. COSTERUS, Plaintiff,	)	
v.	)	00-CV-12156-MEL
GOVERNOR PAUL CELLUCCI, et al., Defendants.	)	O R D E R

LASKER, D.J.

Paul Cellucci, former Governor of the Commonwealth of Massachusetts, Attorney General Thomas Reilly, District Attorney Martha Coakley, Assistant District Attorney Erin Duggan, Secretary of the Executive Office of Public Safety Jane Perlov, Commissioner of Probation John J. O'Brien, the East Boston District Court, the Commonwealth of Massachusetts, the Town of Marion, Brian J. Scott and Jonathan Philbrook (collectively, the "Non-Concord Defendants"--the Town of Concord and its officers being the only remaining defendants) move for entry of final judgment under Fed. R. Civ. P. 54(b). Costerus has not filed an opposition. The request is granted because:

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(1) Entry of a final judgment dismissing the action against the Non-Concord Defendants will dispose of all of the claims against them in this action;

(2) There is no just reason to delay the entry of final judgment. The dismissal of the Non-Concord Defendants is based on plaintiff's failure to state a cognizable claim against them under Fed.R.Civ.P. 12(b)(6). The reasons supporting this Court's determination are distinct from the factual and legal issues pertaining to the other defendants. An appeal of the Non-Concord Defendants' dismissal would not require the consideration of any issue that might be raised even if plaintiff or the other defendants ultimately appeal a judgment in the pending claims. Further, resolution of the pending claims would not moot an appeal of the Non-Concord Defendants' dismissal because the issues are distinct. An adjudication of such an appeal would not delay or otherwise impede resolution of the remaining claims; and

(3) If an appeal of the Non-Concord Defendants' dismissals is delayed until the end of the case and if such an appeal is successful, both plaintiff and the Non-Concord Defendants' would be prejudiced because they would then be required to resume litigation, including discovery.

Therefore, it is hereby ordered that a judgment enter dismissing from this action the Non-Concord Defendants in their entirety, with each party bearing his own legal fees, costs, and expenses.

It is so ordered.

Dated: July 7, 2001
Boston, Massachusetts

U.S.D.J.